

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PATRICK CHAVEZ, et al,

Plaintiffs,

v.

No. CIV 02-562 JCH/ACT

CITY OF ALBUQUERQUE,

Defendant.

PARTIAL JUDGMENT

THIS MATTER came before the Court on a one-day bench trial, which took place on September 10, 2007. At trial, the majority Plaintiffs were represented by Sam Bregman, Esq., minority Plaintiffs were represented by Paul Livingston, Esq., and Defendant City of Albuquerque was represented by Edward W. Bergmann, Esq., Michael I. Garcia, Esq., and Jerry A. Walz, Esq. The issues having been duly tried and the Court having issued its Findings of Fact and Conclusions of Law,

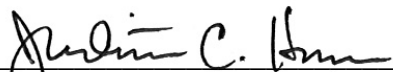
IT THEREFORE IS ORDERED AND ADJUDGED as follows:

(1) The Court finds in favor of Plaintiffs and against the Defendant City of Albuquerque on Plaintiffs' claims that the City fails to include vacation and sick leave buy back in the calculation of the statutory "regular rate" of pay in violation of the Fair Labor Standard Act's (FLSA) overtime pay requirements; and

(2) The Court finds against Plaintiffs and in favor of Defendant City of Albuquerque on Plaintiffs' claims that (a) the City does not properly include all regularly-paid, nondiscretionary bonuses and add-ons in its calculation of the "regular rate" of pay, and (b) the

City does not properly credit payments against its FLSA overtime liabilities; these claims are therefore dismissed with prejudice in their entirety.

Dated this 17th day of January 2008.



JUDITH C. HERRERA
UNITED STATES DISTRICT JUDGE